



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,960	02/17/2004	Michael E. LaSalle	STG-001	9118
36822 7590 12/16/2009 GORDON & JACOBSON, P.C. 60 LONG RIDGE ROAD SUITE 407 STAMFORD, CT 06902			EXAMINER HARMON, CHRISTOPHER R	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 12/16/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/779,960

Applicant(s)

LASALLE, MICHAEL E.

Examiner

Christopher R. Harmon

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-14 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-14 25-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 12 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pagdin (US 2,920,916) in view of Tygard (US 5,516,255).

Pagdin disclose a method of handling material comprising automatically arranging bags into groups by a conveyor 10 system to an accumulator station 12; lifting and transporting groups into a cross stacked configuration via suction/stacker head 19; see figures 1 and 3, column 2, line 21. Bags of material are inherently packaged at an upstream point in the process. Suction head 19 automatically lifts and transports arranged groups of elongate bags by applying opposing clamping forces by outer portion of member 50 along outer sides of bags while preventing bag slippage by inner portion of member 50; see column 3, lines 45+. The multi-row stack is thereby palletized and lifted for transport to a customer. The bottom group/tier of units 12' is also cross stacked, see figure 1.

Pagdin discloses flexible support structure 44 however the flexible screen is not positioned "sandwiched" between bags extending downward from above.

Furthermore, the lifting and transporting device of Pagdin uses suction on the top surface of the arranged bags therefore does not directly disclose applying two opposed clamping forces however Tygard teaches an overhead clamping device using two pairs

of clamping arms 30 central support bar 20 and also that only one pair can accomplish the same task if desired, see figures 1-3B; column 8, lines 50+.

Tygard uses a central core support structure 20 (considered to fit into a slot in a conveyor belt system) operable disposed "sandwiched" between cross stacked products for preventing sliding; see figure 3B. It would have been obvious to one of ordinary skill in the art to provide a flexible central support structure which extends downwardly to be sandwiched between bags as taught by Tygard in the invention to Pagdin for assisting in maintaining the products in a desired configuration. Note that in the modified invention to Pagdin the flexible screen of Pagdin would read on the claims covering the structure of Tygard and/or it would be obvious to one of ordinary skill in the art to utilize a flexible material (ie. rubber etc.) for the central structure as it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

3. Claims 12 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pagdin (US 2,920,916) in view of Seaberg (US 6,135,704) in further view of Tygard (US 5,516,255).

The lifting and transporting device of Pagdin uses suction on the top surface of the arranged bags therefore does not directly disclose applying opposed clamping forces that alone are sufficient to lift the group, however Seaberg discloses a similar lifting device for lifting a layer of cross stacked products using opposing clamping forces that alone are sufficient to lift the stacked layer; see figures 1 and 3.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the clamp device of Seaberg in the invention to Pagdin as a substitute for the lifting/clamping device for transferring articles. Note that Seaberg discloses the use of two pairs of clamping arms however Tygard recognizes in a similar invention using two pairs of clamping arms 30 that only one pair can accomplish the same task if desired, see column 8, lines 50+.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use only one pair of clamps (opposing clamping forces) in the modified invention to Pagdin for transporting the goods.

Seaberg describes using a central core support structure (considered to fit into a slot in a conveyor belt system) operable disposed between cross stacked products for preventing sliding; see column 5, lines 54+, however not directly disclosed as having "flexible" properties. It would have been obvious to one of ordinary skill in the art to use a flexible material for the central support structure discussed by Seaberg to be sandwiched as claimed. See *In re Leshin*, 125 USPQ 416, supra.

4. Claims 12-14 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pagdin (US 2,920,916) in view of Tygard (US 5,516,255) and AAPA and further view of Milholen et al. (US 3,992,049).

Pagdin does not directly disclose the automatic lifting device comprising at least one support structure disposed between bags received in a slot of a conveyor system however Milholen et al. disclose a lifting device 10 with central bar support structures

106, 108, 110, and 112 which are disposed between layered products for support in lifting/transport; see figure 3. Central bar supports enter into/out of slots in tray 220 during the operation, which is considered part of a conveyor belt system; see figure 2.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Milholen et al. in the modified invention to Pagdin for keeping separate the bags during their transport.

Regarding claims 13-14 and 26-27, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to include chain, rope, or wire in the support structure for operably separating the products because Appellant has not disclosed that these structures provide an advantage, are used for a particular purpose, or solve a stated problem. One of ordinary skill in the art, furthermore, would have expected Appellant's invention to perform equally well with a bar support for separation.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3721

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher R Harmon/
Primary Examiner, Art Unit 3721